



**REVISED SUMMARIZED MEETING MINUTES**

**CITIZEN CODE OF ETHICS TASK FORCE  
REGULAR MEETING  
PINNACLE CONFERENCE ROOM  
7575 EAST MAIN STREET  
SCOTTSDALE, ARIZONA  
NOVEMBER 28, 2005**

**PRESENT:** Art DeCabooter, Chairman  
Jim Derouin  
Margaret Dunn (left 8:03 p.m.)  
Jim Bruner  
Rita Saunders-Hawranek  
Dewey Schade (arrived 6.10 p.m.)  
Ned O'Hearn

**STAFF PRESENT:** Teri Traaen  
Jay Osborn

**ALSO PRESENT FOR ALL OR PART OF MEETING:**  
Councilman Robert Littlefield  
Tim Delaney  
George Knowlton  
Dale Rittenhouse

**CALL TO ORDER**

The regular meeting of the Citizen Code of Ethics Task Force was called to order by Chairman DeCabooter at 6:05 p.m.

**ROLL CALL**

A formal roll call confirmed the members present as stated above.

**OPEN CALL TO THE PUBLIC**

No members of the public wished to address the meeting.

## **APPROVAL OF MINUTES OF NOVEMBER 15, 2005 MEETING**

Chairman DeCabooter noted that along with the draft minutes of the last meeting, Task Force members had received an instruction sheet explaining how to access the verbatim minutes.

Mr. Bruner remarked that the reporter does a fantastic job of trying to summarize comments into concise statements.

**MR. BRUNER MOVED TO APPROVE THE MINUTES OF THE NOVEMBER 15, 2005 MEETING. THE MOTION WAS SECONDED BY MS. DUNN AND CARRIED UNANIMOUSLY BY A VOTE OF 6 (SIX) TO 0 (ZERO).**

### 1. **ETHICS CONSULTANT PRESENTATION**

Dr. Traaen presented Mr. Tim Delaney, founder of the Center for Leadership, Ethics and Public Service, who spoke on the opportunity the Task Force has to make a difference, noting widespread moral decay across the country in the past few years.

As an exercise, Mr. Delaney offered the Task Force members a gift-wrapped package, which no one accepted. He asked them if they had received training on receiving gifts. Other topics of concern he mentioned were complying with the Open Meeting law, public records, and conflicts of interest. Community leaders need to be equipped with the knowledge of how the law applies to them to be able to make well-informed decisions.

Mentioning materials he prepared in the past, Mr. Delaney noted that there is a lot available to consider. He said that the point of the gift exercise is that all officials, whether elected, appointed, or hired, need basic training on existing State laws. Normally this type of training is not provided. He added that the beauty of a gift is its contents, not the wrapping. A code of ethics standing alone is like the wrapping. More substance is needed. A proactive ethics program with training is needed. If a code is drafted and adopted without a complete program, he stated that it will sit and gather dust. The important issue to come to grips with is the contents of the ethics policy and how to equip everyone with that knowledge.

Mr. Delaney advised the Task Force to be aware that there are many State laws that apply notwithstanding any municipal codes or regulations. Examples are the Arizona conflict of interest statute and the Open Meeting Law. Rather than trying to impose sanctions, his advice was to consider an aspirational code to encourage people to do their best, and provide training to help them achieve that. Bringing in a punitive code of ethics may create more problems than it solves, since State law in Arizona is quite strong.

His recommendation is to have a four-part ethics program:

Part 1:           Written standards:  
                    Mr. Delaney noted that there are many examples in place to refer to.

                    Aspirational code:  
                    What does the City of Scottsdale expect in terms of behavior?

Part 2: Meaningful ongoing training:  
Initial orientation, ongoing training including rewards and recognition.

Mr. Delaney said although people may feel that virtue should be its own reward, there are ways of providing recognition and non-monetary rewards for the behavior one wants.

Part 3: Provide a resource to help people make ethical decisions.

Part 4: Conduct routine ethics audits:  
If the audit reveals that some guidelines are too tight or too loose, they can be adjusted accordingly.

In terms of tools and resources, Mr. Delaney suggested publishing matrices to help people make ethical decisions. These can then be discussed on a regular basis at staff meetings. The plan is get people used to thinking about ethical questions.

He demonstrated a simple exercise by pulling up an empty chair to the meeting table. This is to remind attendees "someone is watching, we need to do the right thing."

Mr. Delaney produced a relay baton. People in the past built Scottsdale. Today's officials have the obligation to hold the relay baton in trust for future generations. A strong ethics program can potentially be a big part of that trust.

Mr. Bruner asked whether it is better to have a general code or make it detailed and itemized.

Mr. Delaney replied that too much detail would overwhelm people. A simple, focused, aspirational statement that is supported by State law can be grasped by the audience. It can be amplified by explaining how State law comes into play.

Mr. Bruner asked how other cities monitor compliance of the elected and appointed officials, and how the codes are enforced if necessary.

Mr. Delaney replied that the newspapers publish ethics breaches. Education and training is the way to prevent these problems. These sessions can be open to both the media and the public. This reminds people that they will be held accountable. Just handing out a booklet that may never be read is not enough. He has seen people remind each other at meetings about the Open Meeting Law.

In reply to a further question from Mr. Bruner, he said that enforcement is uncommon at the municipal level. He cautioned that creating a new entity for enforcement could serve as a magnet to draw out even more complaints. He has seen this happen in various states. He advised thinking carefully before creating a new place for citizens to go with complaints. Many organizations have created a position of chief ethics officer as a resource for people to turn to with questions. In other organizations, the role is taken on by an in-house attorney or the human resources department. There needs to be a safe place for citizens and employees to bring concerns so that they can be investigated, rather than having media involvement because

concerned citizens have no other place to turn. In some organizations this is internal. Other organizations have an external place, which protects all parties.

Mr. Derouin asked about City staff. They are less in the public eye and an ethics code could be put into the employee handbook. Mr. Delaney replied that staff has many policies they must comply with. Discipline can be handled through normal channels. He believes that the code of ethics, if it is aspirational, would not necessarily put an additional burden onto City staff. His thinking is that the code would apply to elected officials and appointees, who are not staff.

Mr. Derouin asked who is responsible for oversight of council members, if a violation of the conflict of interest policy occurs. He remarked that going to the Attorney General's office could be overkill.

Mr. Delaney replied that for elected council members, compliance is up to the individual. The County Attorney and the Attorney General's office would be the outside enforcers. He suggested that a city can set up a system whereby elected officials are required to make full disclosures to the city attorney's office in advance. The city attorney's office can then set up a tickler system and remind the official ahead of time not to vote if a conflict comes up on the agenda. If the official votes anyway, they would approach him after the fact and ask him to correct it. It may be difficult for them turn an elected official in to the County Attorney or the Attorney General's office.

Mr. Derouin asked who is responsible for oversight of people appointed to boards and commissions. Mr. Delaney said he was not sure whether Scottsdale has put something in place. Generally there is no formal oversight, unless someone makes a complaint to an official agency.

He reminded them that Arizona State law trumps any regulations enacted by local jurisdictions and asked Task Force members if appointed officials have any training whatsoever at this time. Are they aware of the conflict of interest law that they should comply with? He recommended building in a safety system before problems arise to give people a chance to do the right thing. The assistant city attorney responsible for each board and commission can do this. It is important to treat people fairly and support citizen representatives.

Mr. Derouin had a question about gifts. He noted that the State statute forbids soliciting gifts, but does not say that gifts cannot be accepted. He added that he feels this is not a big problem at the municipal level but at higher levels of government, gifts are offered to officials. He asked whether, if the City of Scottsdale decided to make a rule about not accepting offered gifts, that would be going beyond State law.

Mr. Delaney said he would need to do research to answer this question, as a number of statutes apply. He believes that accepting gifts is also illegal. The lobbying laws, which were revised in 2000, may also apply. He knows that many municipalities have not been fully briefed on that legislation. He described it briefly and said he would need to research it more fully.

Mr. Schade said that Mr. Delaney's presentation had stimulated him with dozens of thoughts and questions. He agrees it is not wise to go beyond State law. The Task Force has a great opportunity to do something special. Scottsdale is a superior city in many ways. The City needs

a code of ethics, and it should be the best. He stated that many people today are clueless about ethics, believing that if an act is not illegal, it must be okay.

He would like to see a statement of principle encouraging all Scottsdale officials to act in the highest manner. This may not be enforceable, but would be there for people to aspire to. Mr. Schade agreed that training is essential and asked Mr. Delaney what he would recommend.

Mr. Delaney replied that the State system has a deadline for the ethics training, which must take place within six months of hire or appointment. This is a flaw. The initial training should not be postponed. Annual updates should not be in written form because despite good intentions, people do not read everything they are given. Annual training sessions are a more effective reminder. He believes that full day programs are not the most effective delivery method. His programs are more entertaining and keep people engaged. He described dramatizing conflict of interest by wearing two hats at the same time, which people remember.

Mr. Schade asked who should get the training and who should be subject to an ethics code. Mr. Delaney talked of his experience with the City of Phoenix. The ad hoc committee that initially started the Phoenix program decided everyone needs the tools for ethical decision-making.

Mr. Schade asked about enforcement provisions. Mr. Delaney stated that a lot of enforcement comes through education. When people know that they can go to jail and be fined, they will pay attention.

Mr. Schade asked where complaints would be directed. He commented that at the local level, it is crucial to choose the right person. Ultimately they should be answerable to City Council. However, they must be independent, otherwise they will not be credible. What training and experience do they need?

Mr. Delaney said if the complaint were about an employee, their supervisor would be able to deal with the issue. Allegations about elected or appointed officials are a different situation. He suggested that an attorney could act like a referee by doing an initial investigation and referring the matter to a prosecutor if warranted. This individual would be able to track issues and types of complaint and would be in a position to suggest training. Mr. Delaney cautioned that it is a mistake to depend too much on one individual, and forming a committee is a safer course of action. Members would be drawn from the City Attorney's office, human resources and others interested in boards and commissions. The committee would be an informal body and the Chief Ethics Officer would make the final decisions.

Mr. O'Hearn said he was surprised when Mr. Delaney said in his presentation that State law is adequate. The Task Force has looked at many other cities' codes, some of which are huge projects and very detailed. Mr. Delaney said that although State law supersedes any municipal regulation, there are areas of State law that could be clarified. In training, it is helpful to give some examples.

The City of Phoenix code, which was the first he worked on, begins with an aspirational statement, and then lays out applicable laws and policies. For each area of the code, there is an explanation of the reason for the policy. When people understand why the policy is in place,

they will move towards compliance. An appendix written by the City Attorney gives examples of conflict of interest situations.

Mr. O'Hearn asked Mr. Delaney for his opinion on the Fountain Hills document. Mr. Delaney replied that he has not seen it. In his opinion, any document is inadequate without a training component. There should be an aspirational statement, advice as to the laws that apply, a committee and a training program.

Mr. O'Hearn raised the point that was discussed at the last meeting that election campaigns are often unethical. It would be interesting to ask candidates to sign a document stating that they would run an ethical campaign. However, this cannot be enforced. Milpitas, California had introduced this and since repealed it. Mr. Delaney agreed that mudslinging and character assassination in elections discourage good people from running for office out of concern to protect their families. However, he noted that there are First Amendment concerns. Perhaps an outside group could step forward to encourage more ethical campaigning.

Mr. Bruner strongly agreed with Mr. Delaney's emphasis on training. As a comment, he produced the front page of a 64-page training manual from a major corporation he had printed from the Internet. He then told the meeting that it was from Enron. Mr. Delaney distributed copies of a column he had written for publication in the Arizona Republic on: Preventing Tomorrow's Scandals: Lesson Learned.

A discussion ensued on how Mr. Delaney might be able to help the Task Force. He said that his goal is to promote ethical leadership. If invited to become involved, he would meet with the Chair, review the minutes of previous meetings and meet with Dr. Traaen and perhaps the City Attorney's office to understand what the City is doing now. Before starting, his recommendation would be to do a brief audit to have a clear picture of the current state of affairs.

He would not want the Task Force to waste energy reinventing the wheel. Good examples of ethics codes are the City of Phoenix, Mesa, and the State. Mr. Delaney advised asking the City Attorney's office if they had any particular issues of concern that they wished to put in the book. He recommended giving people a small, simple booklet, neither so short nor flimsy that they discounted it, nor so voluminous that no one would ever read it. At the end of the document, a certification page should be included for the reader's signature. This would then be filed.

Mr. Schade observed that to get a drivers license one must pass a written test. He asked if testing would be an option. He believes that on the whole, people want to do the right thing, but are faced with situations that are too complicated. He would like to see a statement of core values affirming the value of transparent government.

Mr. Delaney cautioned against getting too specific. The City might find this to be limiting in unforeseen circumstances. He supports the idea of a statement that the City of Scottsdale prefers open and transparent government whenever possible.

Mr. Derouin referred to the code in Milpitas, California, which states "State law does not explicitly bar the City Attorney from offering unsolicited legal advice. This ordinance should be interpreted such that the City Attorney, in addition to regular duties, should be outspoken in giving advice." Mr. Schade noted that some city attorneys are more vigorous and proactive than

others. At the city level, knowledge and commitment can be lacking. He stressed that this is definitely not a commentary on present staff in Scottsdale. Mr. Delaney said that legal staff may lack direction or may feel that they should be passive.

Chairman DeCabooter thanked Mr. Delaney for his very enlightening and educational presentation. Mr. Delaney commended the Task Force members for refusing the gift. The work of the Task Force is very important and he wished them every success.

### **OPEN MEETING LAW PRESENTATION**

Mr. Jay Osborn, senior assistant City Attorney gave a presentation on the Open Meeting Law. He remarked that Mr. Delaney's comments were interesting. His office conducts periodic orientations for newly appointed board and commission members. There are also annual refresher sessions for all of the boards and commissions.

Mr. Osborn outlined the basic principles of the Open Meeting Law, adding that the Arizona Attorney General has a broad definition. Noting that the law requires public meeting agendas to be posted at least 24 hours prior to the meeting, Mr. Osborn said that City Council wants them to be published ten days prior to the meeting, going well above and beyond the legal requirements of the State.

He explained the Attorney General's recent opinion on e-mail communication and the danger of creating a quorum inadvertently in a social setting or via e-mail. It is fine for staff to give information with no discussion ensuing. It is also fine for a commissioner to share information or suggest agenda items for future meetings, as long as no discussion ensues. Mr. Osborn noted that when Ms. Saunders-Hawranek's policy suggestions were sent via e-mail, a warning text was included reminding Task Force members not to discuss or forward the message. This is a new initiative since the publication of the Attorney General's opinion.

Mr. Schade asked if there is a City policy regarding the use of e-mail. Mr. Osborn said it allows council members to communicate easily with constituents, but is becoming an issue with respect to the Open Meeting Law. Mr. Schade stated that a policy banning the use of e-mail would avoid the risks of violating the Open Meeting Law. Mr. Osborn said he understands that position but felt that his office's role was to point out the dangers to people.

Mr. Bruner asked Mr. Osborn for a copy of the Attorney General's opinion. Mr. Osborn said he would also provide a copy of the City Attorney's cover memo too. He added that if Task Force members want more information or legal perspective, they can ask him.

### **DISCUSSION OF CODE OF ETHICS**

Chairman DeCabooter noted that although the Task Force has already worked hard, it is important to find an approach and really get down to work. Mr. Delaney's analysis was very complete, but the Task Force needs something concrete.

Ms. Dunn said that Mr. Delaney had clarified that the State statute would serve as the base for the Scottsdale code of ethics. She noted that everyone was in agreement with the need for

training. Ms. Saunders-Hawranek's statement is aspirational. She believes that having gathered lots of information, it is time to get started.

Mr. O'Hearn agreed it is important to be organized as they tackle this task. The preamble drafted by Ms. Saunders-Hawranek is a good beginning. He likes the matrix from Fountain Hills. The Task Force needs to identify the subheadings to be dealt with in the code, some of which will be easier and shorter to deal with than others. Some cities require council members to provide a detailed list of all meetings they have been involved in on a monthly basis. He concluded by saying that the Task Force needs to agree on an organized process. This could be done by subcommittees who would come back with recommended language. Mr. O'Hearn feels that Mr. Delaney could be very useful to the City in the future development of the training program. The way to have the best code of ethics program is to have the best training, awareness and accountability programs.

Mr. Bruner commented that Mr. Delaney is a nationally respected expert living in the Valley. It would make sense to use his expertise. Mr. Delaney's input would be helpful and probably make the process go faster. Everyone had learned from his presentation tonight.

A discussion ensued on how Mr. Delaney might be involved in working with the Task Force. Ms. Dunn said she would like his input, but it would bother her if he were sitting at the table at every meeting. The danger would be that Task Force members would want his comments and input on every question and in spite of everyone's intentions to the contrary, he would end up directing the Task Force.

Mr. Derouin observed that the Task Force could be jump-started by having the essence of previous work viewed as the "wheel" around which they will begin their work, instead of reinventing it, which Mr. Delaney had warned of. Drafting a core document to start from would be a discrete task that could be delegated to Mr. Delaney. A discussion ensued on how this might be accomplished. Chairman DeCabooter asked Dr. Traaen to help with this.

Ms. Saunders-Hawranek asked the other Task Force members to provide input to her draft statement. This will eventually be the aspirations document that will be the introduction to the code. She stated that to draft the code, the Task Force needs Mr. Delaney, Dr. Traaen, and another person to help. She feels that a formal request should be made to Mr. Delaney.

Mr. Bruner said they might ask Mr. Delaney for suggestions on how he might be able to assist the Task Force. He appreciates Ms. Dunn's concern. Using Mr. Delaney's expertise would make their task easier.

Mr. Schade noted that the Task Force is operating under time constraints. He noted that whatever the Task Force does is subject to Council action. He suggested writing an outline over the next two meetings and sending that to City Council to see what they say. He saw no sense in wasting money on something Council would not buy into. Once City Council has approved the outline, Mr. Delaney could be brought back to work on the details. This approach would be speedy and productive.

Mr. O'Hearn said that this is not a program; it is a list of components. City Council wants the code itself. Mr. Schade said the danger is that City Council may not like their draft. He would

be upset if they do not implement the code after the Task Force expends a great deal of effort in drawing it up.

Mr. Bruner pointed out that it is the prerogative of City Council to do what they want with the draft code. The Task Force cannot dictate to Council. At the next meeting he would like to start implementing Mr. O'Hearn's suggestion. In the meantime, he would like the Chairman and Dr. Traaen to meet with Mr. Delaney to find out how the Task Force can best take advantage of his expertise.

A discussion ensued on how meetings might be run. Mr. Schade suggested having Mr. Delaney attend the meetings at the staff table and provide input at the end of each meeting. Chairman DeCabooter said that when he meets with Mr. Delaney, he will ask how he sees his role.

Mr. O'Hearn suggested agreeing on terminology. He suggested that "program" refers to everything, the overall, all-encompassing initiative. The "wheel" would be the document itself in its entirety. The "spokes" would be the chapter headings within the code of ethics. Subheadings under that would be in-depth details as needed.

Dr. Traaen noted that the Human Resources Department has a learning and organization development division that can help with delivery of training.

Mr. Derouin suggested that everyone should identify issues and questions. Mr. O'Hearn repeated the importance of being organized and working in categories. Mr. Schade agreed on the importance of sharing ideas. He felt that once the Task Force reports to City Council in February they might come back to work on details in greater depth. Time is short and this would be one way of producing a first-rate code of ethics.

Dr. Traaen asked Task Force members to submit their ideas by noon on Thursday, December 1st. She will have staff prepare the matrix material before the next meeting. Chairman DeCabooter said he would meet with Mr. Delaney before the next meeting. Mr. Schade said it would be good to have Mr. Delaney at the next meeting to observe.

Ms. Saunders-Hawranek asked about the aspiration statement she had drafted. Mr. Schade said he felt it is a fairly premature document and that preambles are usually written at the end of the process. Task Force members will likely want to review this again when the rest of the work is done.

#### 4. **FUTURE MEETING SCHEDULE AND AGENDA ITEMS**

Chairman DeCabooter noted that the next meeting is on Tuesday, December 6. After a short discussion, the following meeting was set for Monday, December 19th. Task Force members agreed to meet at 5:00 p.m. for these two meetings in order to hold longer meetings. Ms. Saunders-Hawranek noted that starting earlier is not popular with members of the public who want to attend. Mr. Schade noted that with the work that must be done, an earlier start time is justified.

5. **TASK FORCE MEMBER COMMENTS**

None.

6. **PUBLIC COMMENTS**

Mr. George Knowlton stressed emphatically that a 5:00 p.m. start is too early. It is almost impossible for members of the public to attend. Mr. Schade replied that he sympathizes with Mr. Knowlton's position, but the Task Force is an ad hoc group facing time constraints.

7. **ADJOURNMENT**

With no further business to discuss, the regular meeting of the Citizen Code of Ethics Task Force adjourned at 8.35 p.m.

**Respectfully submitted by:**

Valerie Wegner  
Administrative Secretary, Human Resources

**Reviewed by:**

Art DeCabooter, Chair

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Officially approved by the Citizen Code of Ethics Task Force on December 6, 2005.